

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BARRETT Q. GRIGGS,  
Petitioner,

v.

KELLY BANACH, *et al.*,  
Respondents.

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CIVIL ACTION  
NO. 15-653

**ORDER**

**AND NOW**, this 2nd day of September, 2015, having considered the Petition for Writ of *Habeas Corpus* filed by Petitioner Barrett Q. Griggs (Docket No. 1), the Response to the Petition (Doc. No. 12), and U.S. Magistrate Judge Carol Sandra Moore Wells's Report & Recommendations (Doc. No. 13), to which no objections have been filed,<sup>1</sup> it is hereby **ORDERED** that:

1. The Report & Recommendations are **APPROVED** and **ADOPTED**.
2. The Petition for Writ of *Habeas Corpus* (Docket No. 1) is **DISMISSED**, without prejudice, for failure to exhaust state court remedies; and
3. There is no probable cause to issue a certificate of appealability.<sup>2</sup>
4. The Clerk of Court shall mark this case **CLOSED** for all purposes, including statistics.

BY THE COURT:

/s/ Gene E.K. Pratter  
GENE E.K. PRATTER  
United States District Judge

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<sup>1</sup> The Local Rules provide that "[a]ny party may object to a magistrate judge's order determining a motion or matter . . . within fourteen (14) days after issuance of the magistrate judge's order . . ." E.D. Pa. Local R. Civ. P. 72.1(IV)(a). Judge Wells issued her Report and Recommendation on June 17, 2015; objections were therefore due July 1, 2015.

<sup>2</sup> A certificate of appealability may issue only upon "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). A petitioner must "demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Lambert v. Blackwell*, 387 F.3d 210, 230 (3d Cir. 2004). The Court agrees with Magistrate Judge Wells that there is no probable cause to issue such a certificate in this action.